

## Law Offices of Joseph L. Manson III

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January 11, 2021

VIA ECF

The Hon. Laura Taylor Swain  
United States District Judge  
500 Pearl Street  
New York, NY 10007

Re: *Nova Group, Inc. v. Universitas Education, LLC*, Case No. 11-cv-1590-LTS-HBP  
and 11-cv-8726-LTS-HBP

Dear Hon. Judge Swain,

We represent Universitas Education, LLC (“Universitas”) in the above-captioned action. We write in response to the January 3, 2021 letter motion filed by Daniel Carpenter. (Docket entry no. 675.) We do not address the entirety of Mr. Carpenter’s letter motion, as much of the letter motion seeks relief outside the scope of NYSD Local Civil Rule 7.1(d). Nor do we address Mr. Carpenter’s wild and unfounded accusations against Universitas’ counsel.

Universitas is not opposed to the Court taking judicial notice of the letter sent by Attorney Manson concerning a Motion to Strike Mr. Carpenter’s reply brief. Universitas ultimately decided not to file the Motion to Strike, as this action has already become unnecessarily burdensome upon the Court (and Universitas). Nor does Universitas oppose the Court taking judicial notice of the case identified by Mr. Carpenter: *Universitas Educ., LLC v. T.D. Bank, N.A.*, 2015 WL 9304551 (S.D.N.Y. Dec. 21, 2015). However, this case does not provide a basis to retroactively deny Universitas’ claims as time-barred.<sup>1</sup> Universitas moved for reconsideration of the *TD Bank* opinion, arguing that the court’s ruling that Universitas’ claims expired in October of 2012 was incompatible with this Court’s finding that Universitas could not have known its claims existed until November of 2012. Hon. Judge Scheindlin distinguished Universitas’ claims against TD Bank from Universitas’ claims in this proceeding on the basis of equitable tolling and found that Universitas’ claims against TD Bank were not equitably tolled, *inter alia*, as a result of her finding that TD Bank did not affirmatively deceive Universitas and/or conceal information from Universitas in order to prevent Universitas from bringing suit. See *Universitas Educ., LLC v. T.D. Bank, N.A.*, No. 15-cv-5643 (SAS), 2016 U.S. Dist. LEXIS 967, at \*4-\*7 (S.D.N.Y. Jan. 5, 2016).

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<sup>1</sup> Universitas is not discussing the entirety of the reasons as to why the *TD Bank* order does not nullify the judgment entered against Mr. Carpenter. This is not a waiver of these arguments, and Universitas’ expressly reserves all rights to such arguments.

This Court determined that Universitas claims against Mr. Carpenter and his entities were equitably tolled:

Mr. Carpenter and his entities actively concealed the fraudulent conveyances by using shell entities to secretly move the Insurance Proceeds away from the Charter Oak Trust, and then vigorously resisting efforts to enforce Petitioner's judgment, and resisting all discovery efforts designed to determine the whereabouts of the Insurance Proceeds. Petitioner was not in a position to understand the nature of the transfers until November 30, 2012, when Petitioner first received a production of bank records related to the transfers. This turnover proceeding was commenced within a year of that date and thus is timely ....

(Docket entry no. 474 at 16-17.) This finding is entirely consistent with the *TD Bank* opinion submitted by Mr. Carpenter, and thus the *TD Bank* opinion provides no basis for attacking the judgment against Mr. Carpenter.

Mr. Carpenter's letter motion further demonstrates the need for the sanctions requested in Universitas' Motion for Sanctions Against Daniel Carpenter. (Docket entry no. 676.) Mr. Carpenter expressly states that he refuses to comply with the Court's pre-motion meet and confer requirements, and vaguely threatens a litany of additional vexatious motions, including a motion to enjoin Universitas counsel from contacting him and/or his family,<sup>2</sup> and various motions for sanctions against Universitas' attorneys. (Docket entry no. 675.) Thus, Mr. Carpenter will seemingly continue with his vexatious motion practices absent the anti-filing injunction requested by Universitas.

Respectfully Submitted,

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Cc: All Interested Counsel (by ECF)

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<sup>2</sup> Universitas' counsel has never contacted Mr. Carpenter and/or any member of his family outside of letters and other materials it is required to provide Mr. Carpenter in relation to this proceeding.